

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS

JUN 20 2011

CHRIS R. JOHNSON, Clerk  
By

Deputy Clerk

**Dale B. Adams**  
Plaintiff

vs.

Case No. 11-3043

**U S Department of Labor/OSHA**  
**United States Secretary of Labor**  
**Hilda Solis**  
Defendant's

**COMPLAINT FOR INJUNCTIVE RELIEF**

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701 et seq., for injunctive and other appropriate relief, and seeking the expedited processing and release of agency records requested by plaintiff from defendant United States Department of Labor/OSHA and the United States Secretary of Labor; Hilda Solis.

**I. JURISDICTION AND VENUE**

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. §§ 552(a)(4)(B), 28 U.S.C. § 2412 and 552(a)(6)(E)(iii). This court also has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 5 U.S.C. §§ 701-706. Venue lies in this district under 5 U.S.C. § 552(a)(4)(B).

**II. PARTIES**

3. Plaintiff is Dale B. Adams, Pro se of 2313 Anvil Drive, Harrison, AR. 72601, P:(870) 204-6164
4. Defendants are the United States Department of Labor/OSHA and United States Secretary of Labor; Hilda Solis, U.S. Department of Labor, 200 Constitution Ave., NW, Washington, DC 20210, P: (866) 487-9243

5. **III. PLAINTIFF'S FOIA REQUESTS AND REQUESTS FOR EXPEDITED PROCESSING**

6. That although plaintiff mailed the U S Dept of Labor a Freedom of Information Act request with expedited processing due to the threat to loss of life, dated August 20, 2010, they failed to abide by the FOIA laws [Exhibit A]
7. That although plaintiff mailed the U S Dept of Labor/OSHA a Freedom of Information Act request with expedited processing due to the threat to loss of life, dated August 21, 2010, they failed to abide by the FOIA laws [Exhibit B]
8. That on the date of August 27, 2010, the U S Dept of Labor/OSHA sent me the same documents that didn't relate to my request
9. On the date of September 3, 2010, I filed a FOIA appeal describing the useless duplicate records they forwarded to me [Exhibit C]
10. Although they later sent me some records, they left important documents that I requested blank
11. On the date of September 30, 2010, I sent another FOIA appeal to the Solicitor of Labor for the missing pages [Exhibit D]
12. On April 12, 2011, OSHA sent me a letter stating my FOIA appeal had been upheld by Washington D C [Exhibit E]
13. That another letter enclosed also requested that I provide more specific information [Exhibit F]
14. That on April 18, 2011, I responded with more details but was ill during this period and unable to afford medical care along with some other problems [Exhibit G]
15. On April 22, 2011, I received a response stating that I need to provide more details and was only given 7 days until April 29, 2011 to respond [Exhibit H]
16. I received another letter where Monty Cole stated that I didn't respond by April 29, 2011

and that the FOIA Appeal was closed signaling I wasn't going to get any requested documents

17. That I responded June 2, 2011, offering detailed information and explaining why I couldn't promptly respond to their limited response date [Exhibit I]
18. That the FOIA laws require compliance within 20 days and the U S DOL showed a total disregard for abiding by the FOIA laws and the livelihood of my innocent family members as stated below
19. Although Adams' initial FOIA request was dated August 20, 2011 he didn't receive a response to his appeal until April 12, 2011
20. That Plaintiff has exhausted the applicable administrative remedies

**VIII. DEFENDANT'S FAILURE TO RESPOND AND PLAINTIFF'S ENTITLEMENT TO EXPEDITED PROCESSING**

21. That although plaintiff explained that expedited processing was needed to prevent the loss of life to family members, the U S DOL/OSHA showed deliberate indifference to the health and welfare of a human being and refused to comply with my FOIA request
22. That page 2, paragraph 3 under the section of "Expedited Processing" states;
23. *"Your prompt response may also prevent the loss of life of a U S citizen. My Mother-in-Law is mentally disabled as well as suicidal and my elderly Father-in-Law has recently fell four times causing emergency response and hospital care. The information you will provide will assist me in resolving my lawsuit against Tyson Foods promptly so that I can get both relatives the medical care they need to sustain life."* [Exhibit A]
24. That the U S Dept of Labor showed a total disregard for human life and failed to abide by the FOIA laws
25. That as a result my Mother-in-law; Linda Gattis has attempted suicide 3 times during the interim and became fatal on January 1, 2011

26. That we are suffering from severe emotional, physical and financial distress due to this trauma which could have been avoided if the United States Department of Labor would abide by the law and respect a citizen's Constitutional rights to life, liberty and property

27. Plaintiff is entitled to expedited processing of its FOIA requests

28. Defendants have wrongfully withheld the requested records from plaintiff

## **IX. CAUSES OF ACTION**

### **First Cause of Action:**

#### **Violation of the Freedom of Information Act for**

#### **Failure to Timely Respond to Requests for Expedited Processing**

Plaintiff repeats and re alleges paragraphs 1-28

Defendants' failure to timely respond to plaintiff's requests for expedited processing violates the FOIA, 5 U.S.C. § 552

### **Second Cause of Action:**

#### **Violation of the Administrative Procedure Act for**

#### **Failure to Timely Respond to Requests for Expedited Processing**

Plaintiff repeats and re alleges paragraphs 1-28

Defendants' failure to timely respond to plaintiff's requests for expedited processing constitutes agency action unlawfully withheld and unreasonably delayed, in violation of the APA. Defendants' failure to timely respond is arbitrary, capricious, an abuse of discretion, not in accordance with law and without observance of procedure required by law, all in violation of the APA.

### **Third Cause of Action:**

#### **EQUAL ACCESS TO JUSTICE ACT**


Plaintiff requests legal fees and costs totaling \$10,000.00.

**WHEREFORE, plaintiff prays that this Court:**

- A. order defendants immediately to process the requested records in their entireties;
- B. order defendants, upon completion of such expedited processing, to disclose the requested records in their entireties and make copies available to plaintiff;
- C. provide for expeditious proceedings in this action;
- D. award plaintiff its costs and reasonable legal fees incurred in this action;
- E. grant such other relief as the Court may deem just and proper;
- F. grant our requests for entitlement under the EAJA for prior legal costs;

Respectfully submitted,

Signed on this 13<sup>th</sup> day of June, 2011.

A handwritten signature in cursive script, appearing to read "Dale B. Adams", is written over a horizontal line.

Dale B Adams

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